**Court Revives Disability-Bias Suit of School Bus Trainee**

by Mark Walsh

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A federal appeals court has revived the lawsuit of a school bus driver trainee who alleges she faced disability discrimination because she was born without a left hand.

A three-judge panel of the U.S. Court of Appeals for the 6th Circuit, in Cincinnati, ruled unanimously in favor of Tammy Rosebrough, who sued an Ohio school under the federal Americans with Disabilities Act after allegedly facing a series of hurdles during her bus-driver-training period.

Buckeye Valley High School in Delaware, Ohio, was in need of bus drivers when Rosebrough applied for a job as a cook in 2007. An administrator suggested she instead apply as a driver while he checked with state authorities to see whether her lack of a left hand would be a problem. Rosebrough received a waiver from the state allowing her to operate a school bus despite her disability.

During training, a bus supervisor allegedly expressed concerns about Rosebrough's missing left hand, such as saying she would need more training than usual and might have trouble with some bus models because their doors were hard to open.

Meanwhile, the administrator who had initially encouraged her to apply for the job allegedly said she had become "high maintenance" and that parents at the high school "will not be happy with you as a driver," which Rosebrough took to mean because of her missing hand.

But the training continued, with one of the last steps requiring Rosebrough to get a commercial driver's license. That step demanded the participation of a school bus and a trainer from the school district that was hiring her. Rosebrough alleges she got a runaround from the school and that it would not schedule a trainer to accompany her to the commercial license test. Rosebrough never finished her training for Buckeye Valley High.

In 2009, she sued the school under the ADA for alleged discrimination based on a disability, perceived disability, and disparate treatment. A federal district court granted summary judgment to the school, holding that because Rosebrough did not have the necessary commercial driver's license to be a school bus driver, she was not "otherwise qualified" for the position as outlined in the ADA.

In its Aug. 8 decision in *Rosebrough* v. *Buckeye Valley High School*, the 6th Circuit court panel rejected that conclusion. The court said Rosebrough is not a school bus driver but a provisional bus-driver trainee.

"The plain language of the ADA covers discrimination on the basis of disability during job training," the appeals court said. "The statutory inclusion of 'job training' protects individuals while they receive the training required to perform the essential functions of their ultimate job position; it protects them from discrimination that could deny them the means to obtain qualifications necessary to undertake that position."

The 6th Circuit returned the case to the federal district court for it to consider issues that were set aside after it granted summary judgment to the school.